

STATE OF NEW MEXICO
COUNTY OF MORA
FOURTH JUDICIAL DISTRICT COURT

MABELLE ROYBAL,
Plaintiff,

vs.

NO. D-430-CV-2015-00025

EMMANUEL REMEZO,
DEE KING TRUCKING L.P.,
and NATIONAL LIABILITY & FIRE INSURANCE CO.,
Defendants.

**COMPLAINT FOR DAMAGES
AS A RESULT OF PERSONAL INJURY**

COMES NOW, Plaintiff, Mabelle Roybal, by and through her attorneys, Roybal-Mack Law P.C, and for her complaint in this action states:

NATURE OF THE COMPLAINT

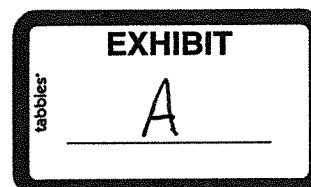
1. This is an action against the Defendants for Negligence, Negligent Supervision, Negligence Per Se, violations of the New Mexico Financial Responsibility Act, Medical Expenses, future Medical Expenses, and Pain and Suffering.

JURISDICTION AND VENUE

2. Plaintiff, Mabelle Roybal (hereinafter "Ms. Roybal") is domiciled in the Town of Mora, County of Mora, State of New Mexico. She is a temporary resident of Las Cruces, New Mexico where she is attending college.

3. Upon information and belief, Defendant Emmanuel Remezo, as an agent of Dee Trucking L.P., was employed by Dee King Trucking and does business in the State of New Mexico.

4. Defendant Dee Trucking L.P., does business in the State of New Mexico.



5. Defendant National Liability & Fire Insurance Co. (hereinafter "National Insurance") is subject to the Court's jurisdiction pursuant to *Raskobv. Sanchez*, 1998-NMSC-045, 126 N.M. 394, as insurer of the vehicle driven by Emmanuel Remezo.

6. Upon information and belief, Defendant National Insurance is a foreign corporation doing business in the State of New Mexico issuing automobile insurance policies to New Mexico residents and businesses.

7. Upon information and belief, Dee King Trucking L.P. (Dee King Trucking) procured an insurance policy from National Insurance and or their agents, servants, and or employees. By force of legislative enactment, the Financial Responsibility Act insures the benefit of the public. No language within said Act precludes the joinder of Defendant National Insurance to this suit. Therefore, National Insurance is a necessary and proper party to this action and this Court has in personam jurisdiction over National Insurance and the subject matter of this litigation.

8. That all acts complained of herein occurred within the State of New Mexico.

9. Jurisdiction and venue of the Court are proper in the Fourth Judicial District Court of Mora County, State of New Mexico.

FACTS COMMON TO ALL CAUSES OF ACTION

10. On December 31, 2013, at about 4:30 PM, Ms. Roybal was traveling southbound on Interstate-25 near Los Lunas, New Mexico traveling back to college after winter break.

11. On or about the same date and time, Defendant Emmanuel Remezo was the operator of a Dee King Trucking tractor-trailer that was also traveling southbound along the same highway, in Los Lunas New Mexico.

12. Ms. Roybal was traveling in the left lane of traffic, as she was passing the southbound on-ramp onto I-25 at mile marker 203.

13. Defendant Emmanuel Remezo, was attempting to also go southbound on the interstate. From the on-ramp, the tractor-trailer cut across an entire lane of traffic to veer from the on-ramp into the far left lane of traffic crossing over the entire right lane.

14. Defendant Emmanuel Remezo entered Ms. Roybal's lane causing the collision. The tractor-trailer hit the passenger side of Ms. Roybal's vehicle. Upon impact, Ms. Roybal's vehicle was thrown over one hundred feet into the median.

15. Defendant Emmanuel Remezo, operating the tractor-trailer, stopped several hundred feet away from the scene of the collision, indicating that he was traveling at a high speed.

16. Both airbags in Ms. Roybal's vehicle deployed and her vehicle, along with all of her belongings inside, were a total loss.

17. Immediately after the collision, Ms. Roybal suffered significant pain and was transported by ambulance to the hospital.

18. Ms. Roybal was diagnosed with a broken collar bone, numerous lacerations and edema from her abdomen to her ankles.

19. Ms. Roybal was forced to accept the assistance of others to complete her daily living tasks during her recovery.

20. Ms. Roybal has suffered physical and permanent damage as a result of her injuries.

21. Defendant Emmanuel Remezo was cited multiple times and did not have the proper certifications with him required by law to operate the tractor-trailer. These citations

were also in direct violation of the Dee King Trucking operation handbook. Thus, Dee King Trucking was negligently supervising Mr. Remezo.

22. Plaintiff has incurred medical bills as a result of treatment from the collision.

23. Plaintiff has incurred costs and attorney's fees to bring this matter before the Court.

24. Plaintiff is entitled to damages in an amount to be determined at trial.

25. Plaintiff is entitled to punitive damages.

FIRST CAUSE OF ACTION
NEGLIGENCE – EMMANUEL REMEZO

26. Plaintiff incorporates the preceding paragraphs as though fully set forth herein.

27. Defendant, Emmanuel Remezo had a duty to drive in a reasonable and safe manner and follow traffic rules in order to prevent foreseeable harm to others, including Ms. Roybal.

28. Defendant Emmanuel Remezo failed to drive in a reasonable and safe manner, failed to follow traffic rules by following Ms. Roybal's vehicle too closely and thus he breached his duty owed to Ms. Roybal.

29. Dee King Trucking has a duty to screen and train the tractor-trailer operators and ensure that they are operating the vehicles according to law.

30. Dee King Trucking failed to screen, train and supervise Mr. Remezo.

31. Defendant Emmanuel Remezo's actions are actual and the proximate cause of Plaintiff's injuries and damages.

32. As a direct, proximate and foreseeable result of Defendant Emmanuel Remezo's and Dee King Trucking's negligence, Plaintiff suffered physical injuries and past and future

damages including, but not limited to, pain and suffering, medical and doctor bills, loss of enjoyment of life, lost wages, incidental damages, property damage, and inconvenience.

33. As a result of the negligence, recklessness, and carelessness of Defendants, Plaintiff suffered serious bodily injury.

34. As a result of Plaintiff's injuries, Plaintiff has incurred medical bills.

35. As a result of Defendant's negligence, Plaintiff is entitled to damages in an amount to be determined at trial.

SECOND CAUSE OF ACTION
NEGLIGENCE PER SE - REMEZO

36. Plaintiff incorporates the preceding paragraphs as though fully set forth herein.

37. At the time of the above referenced events, there were, in force and in effect, certain statutes that were violated by Defendant Remezo and Dee King Trucking, including but not limited to: NMSA 1978 § 66-8-113: Reckless driving; NMSA 1978 § 66-8-114: Careless driving; NMSA 1978 § 66-7-3: Required obedience to traffic laws; and other violations of New Mexico law.

38. The aforementioned laws were enacted for the protection of the class of persons, which includes Plaintiff.

39. These New Mexico Legislature statutes were intended to prevent the type of harm or injury that Plaintiff incurred.

40. Defendant Remezo and Dee King Trucking's violation of these statutes constitutes negligence per se.

41. As a direct, proximate and foreseeable result of Defendant Remezo's negligence and negligence per se, Plaintiff suffered physical injuries and past and future damages, including but not limited to pain and suffering, medical and doctor bills, loss of enjoyment of

life, lost wages, incidental damages, property damage, inconvenience, and other damages in amounts to be determined at the time of trial.

**THIRD CAUSE OF ACTION
NEGLIGENT HIRING, TRAINING, SUPERVISION AND
CREDENTIALING BY DEFENDANTS
DEE KING TRUCKING L.P. AND VICARIOUS LIABILITY**

42. Plaintiff incorporates the preceding paragraphs as though fully set forth herein.

43. Defendants owed Ms. Roybal duties to meet and maintain accepted standards of hiring practice.

44. Defendants Dee King Trucking, through their agents and employees, including Emmanuel Remezo, breached those standards by failing to properly keep records and licenses of their drivers, by failing to enforce standards of care for hiring and monitoring drivers by their agents or employees, by failing to adequately supervise their employees or agents and by failing to inspect Emmanuel Remezo's driving history.

45. Dee King Trucking is responsible for their own negligence as well as the negligence of their agents or employees, including Emmanuel Remezo, under the doctrine of *respondeat superior*.

46. Dee King Trucking is vicariously liable for the acts of Remezo, while acting in the course and scope of his employment.

47. Defendant Emmanuel Remezo, while driving for Dee King trucking, breached his duty to reasonably operate the tractor-trailer, which caused the collision between him and Ms. Roybal.

48. As a direct result of the negligence of Dee King Trucking and the negligence of their agent or employee Emmanuel Remezo, Ms. Roybal suffered all compensable damages described herein.

49. As a direct result of the negligence of Dee King Trucking and the negligence of their agent or employee, Ms. Roybal is entitled to punitive damages.

FOURTH CAUSE OF ACTION
**(New Mexico Financial Responsibility Act –
National Liability and Fire Insurance)**

50. Plaintiff incorporates the preceding paragraphs as though fully set forth herein.

51. Upon information and belief, Defendants Dee King Trucking and Emmanuel Remezo were insured with National Insurance on the date of the collision at issue in this case.

52. Pursuant to the New Mexico Financial Responsibility Act, NMSA 1978 § 66-5-201 through 239, and the holding of *Raskob v. Sanchez*, 126 N.M. 394, 970 P.2d 580 (1998), Plaintiff has a claim for the benefits against National Insurance for injuries proximately caused by Defendant Emmanuel Remezo's negligent operation of an automobile in amounts to be determined at the time of trial.

FIFTH CAUSE OF ACTION
(Punitive Damages)

53. The Plaintiff incorporates by reference the foregoing allegations contained in Plaintiff's Complaint pursuant to Rule 1-010(C), NMRA.

54. The actions of Defendants Emmanuel Remezo and Dee King Trucking were reckless and/or wanton, entitling Plaintiff to recover punitive damages in an amount to be determined by the Court at trial.

WHEREFORE, Plaintiff requests that this Court:

- a. award compensatory and punitive damages in an amount to be determined at trial;
- b. award Plaintiff's costs and attorney's fees; and
- c. grant such other relief as it may deem just and proper.

Respectfully Submitted,

Roybal-Mack Law, P.C.

/s/ Antonia Roybal-Mack, Attorney at Law

Antonia Roybal-Mack

1324 6th Street NM

Albuquerque, NM 87102

(505) 288-3500

(505) 288-3501 Fax

STATE OF NEW MEXICO
COUNTY OF MORA
FOURTH JUDICIAL DISTRICT COURT

MABELLE ROYBAL,
Plaintiff,

vs.

NO. D-430-CV-2015-00025

EMMANUEL REMEZO,
DEE KING TRUCKING L.P.,
and NATIONAL LIABILITY & FIRE INSURANCE CO.,
Defendants.

COURT-ANNEXED ARBITRATION CERTIFICATION

Plaintiff, by and through her counsel of record, certifies as follows:

☐ This party seeks only a money judgment and the amount sought does not exceed twenty-five thousand dollars (\$25,000.00) exclusive of punitive damages, interest, costs, and attorney's fees.

☒ This party seeks relief other than a money judgment and/or seeks relief in excess of twenty-five thousand dollars (\$25,000.00) exclusive of punitive damages, interest, costs, and attorney's fee.

Respectfully Submitted,

ROYBAL-MACK LAW, P.C.

/s/ Antonia Roybal-Mack, Attorney at Law

Attorney for Plaintiff

1324 6th Street NW

Albuquerque, NM 87102

Phone: (505) 288-3500

Fax: (505) 288-3501

Antonia@roybalmacklaw.com

BAS

**STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
CERTIFICATE**

FOURTH JUDICIAL DISTRICT COURT
COUNTY OF MORA
STATE OF NEW MEXICO

430CV2015-00025

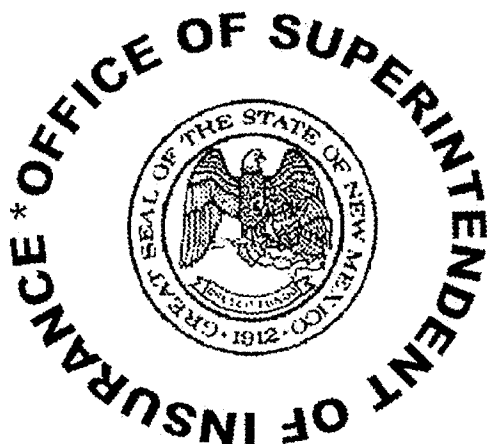
MABELLE ROYBAL,
Plaintiff(s),

VS.

EMMANUEL REMEZOS, DEE KING TRUCKING, L.P. &
NATIONAL LIABILITY & FIRE INSURANCE COMPANY,
Defendant(s),

ACCEPTANCE OF SERVICE

I, John G. Franchini, Superintendent of Insurance of the State of New Mexico, do hereby certify that a copy of a Summons and a Complaint for Damages as a Result of Personal Injury, on the above styled cause was accepted by me on behalf of NATIONAL LIABILITY & FIRE INSURANCE COMPANY, on July 9, 2015, provided in Sections 59A-5-31 and 59A-5-32 NMSA 1978, and was received by said company on July 13, 2015, as shown by return receipt by Postmaster.



In Witness Whereof, I have
hereunto set my official seal
on this 20th of July, 2015

John D. Franchini

Superintendent of Insurance

SUMMONS	
District Court: Fourth Judicial District Court	Case Number: D-430-CV-2015-00025
Mora County, New Mexico	Judge: Honorable Matthew J. Sandóval
Court Address: 496 W. National Las Vegas, NM 87701	
Court Telephone No.: (505) 425-7281	
MABELLE ROYBAL, v. EMMANUEL REMEZO, DEE KING TRUCKING L.P., and NATIONAL LIABILITY & FIRE INSURANCE CO.	Defendant: Emmanuel Remezo C/O Dee King Trucking 17601 E St Francis Ave Amarillo, TX 79108

TO THE ABOVE NAMED DEFENDANT: Take notice that

1. A lawsuit has been filed against you. A copy of the lawsuit is attached. The Court issued this Summons.
2. You must respond to this lawsuit in writing. You must file your written response with the Court no later than thirty (30) days from the date you are served with this Summons. (The date you are considered served with the Summons is determined by Rule 1-004 NMRA) The Court's address is listed above.
3. You must file (in person or by mail) your written response with the Court. When you file your response, you must give or mail a copy to the person who signed the lawsuit.
4. If you do not respond in writing, the Court may enter judgment against you as requested in the lawsuit.
5. You are entitled to a jury trial in most types of lawsuits. To ask for a Jury trial, you must request one in writing and pay a jury fee.
6. If you need an interpreter, you must ask for one in writing.
7. You may wish to consult a lawyer. You may contact the State Bar of New Mexico for help finding a lawyer at www.nmbar.org; 1-800-876-6657; or 1-505-797-6066.
8. Dated at Santa Rosa, New Mexico, this 26th day of June, 2015.

Aurora Lopez
CLERK OF COURT

By: 
Deputy

/s/ Antonia Roybal-Mack
Attorney at Law
Attorney for Plaintiff
1324 6th Street NW
Albuquerque, NM 87102
Phone: (505) 288-3500
Fax: (505) 288-3501
Antonia@roybalmacklaw.com

THIS SUMMONS IS ISSUED PURSUANT TO RULE 1-004 OF THE NEW MEXICO RULES OF CIVIL PROCEDURE
FOR DISTRICT COURTS.

RETURN OF SERVICESTATE OF TEXASCOUNTY OF Potter

ss

I, being duly sworn, on oath, state that I am over the age of eighteen (18) years and not a party to this lawsuit, and that I served this **SUMMONS and COMPLAINT FOR DAMAGES AS A RESULT OF PERSONAL INJURY** in Potter County on the 10 day of July, 2015, in the following manner: Attempted service unable to locate a 17601 E St Francis Ave, Amarillo TX 79108

- ☐ to the Respondent _____ (used when defendant accepts a copy of summons and complaint or refuses to accept the summons and complaint)
- ☐ to the Respondent by [mail] [courier service] as provided by Rule 1-004 NMRA (used when service is by mail or commercial courier service).

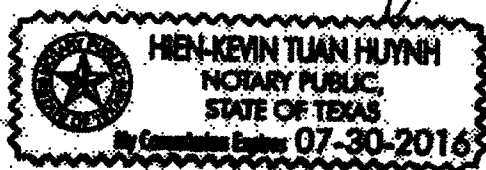
After attempting to serve the summons and complaint on the defendant by personal service or by mail or commercial courier service, by delivering a copy of this summons, with a copy of complaint attached, in the following manner:

- ☐ to _____, a person over fifteen (15) years of age and residing at the usual place of abode of defendant _____, (used when the defendant is not presently at place of abode) and by mailing by first class mail to the defendant at _____ (insert defendant's last known mailing address) a copy of the summons and complaint.
- ☐ to _____, the person apparently in charge at the actual place of business or employment of the defendant and by mailing by first class mail to the defendant at _____ (insert defendant's business address) and by mailing the summons and complaint by first class mail to the defendant at _____ (insert defendant's last known mailing address).
- ☐ to _____, an agent authorized to receive service of process for defendant _____.
- ☐ to _____, [parent] [guardian] [custodian] [conservator] [guardian ad litem] of defendant _____ (used when defendant is a minor or an incompetent person).

Fees: \$0Signature of person making service: [Signature]Title: Certified Process ServerSubscribed and sworn to before me this 14 day of July, 2015 by [Signature]

SEAL

Notary



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SUMMONS	
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Mora County, New Mexico	Judge: Honorable Matthew J. Sandoval
Court Address: 496 W. National Las Vegas, NM 87701	
Court Telephone No.: (505) 425-7281	
MABELLE ROYBAL,	Defendant:
v.	
EMMANUEL REMEZO, DEE KING TRUCKING L.P., and NATIONAL LIABILITY & FIRE INSURANCE CO.	Emmanuel Remezo C/O Dee King Trucking 17601 E St Francis Ave Amarillo, TX 79108

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Deputy

/s/ Antonia Roybal-Mack
Attorney at Law
Attorney for Plaintiff
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- ☐ to the Respondent _____ (used when defendant accepts a copy of summons and complaint or refuses to accept the summons and complaint)
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Fees:

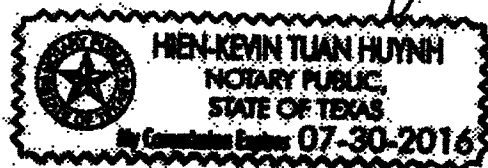
Signature of person making service

Title

Subscribed and sworn to before me this 14 day of July, 2015 by _____

SEAL

Notary



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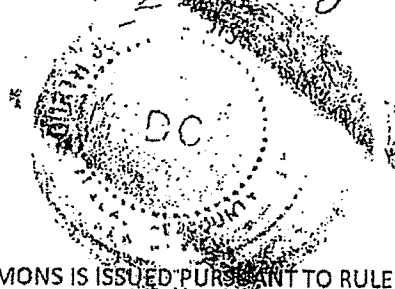
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Mora County, New Mexico	
Court Address: 496 W. National Las Vegas, NM 87701	Judge: Honorable Matthew J. Sandoval
Court Telephone No.: (505) 425-7281	
MABELLE ROYBAL, v. EMMANUEL REMEZO, DEE KING TRUCKING L.P., and NATIONAL LIABILITY & FIRE INSURANCE CO.	Defendant: National Liability & Fire Insurance CO. C/O Office of Superintendent of Insurance P.O. Box 1689 Santa Fe, NM 87504-1689

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Aurora Lopez
CLERK OF COURT

By: 
Deputy



/s/ Antonia Roybal-Mack,
Attorney at Law
Attorney for Plaintiff
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Antonia@roybalmacklaw.com

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FOR DISTRICT COURTS.

RETURN OF SERVICE

STATE OF _____)

COUNTY OF _____)

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- ☐ to _____, [parent] [guardian] [custodian] [conservator] [guardian *ad litem*] of defendant _____ *(used when defendant is a minor or an incompetent person).*

Fees: _____

Signature of person making service

Title

Subscribed and sworn to before me this ____ day of _____, 2015 by _____.

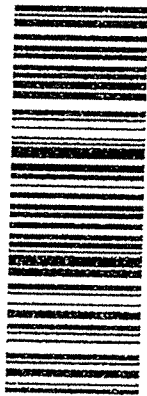
SEAL

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ce of Superintendent of Ins.
/ice of Process
l. Box 1689
ta Fe, NM 87504-1689

CERTIFIED MAIL



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UNITED STATES POSTAGE
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JUL 09 2015
MAILED FROM ZIP CODE 87501